

inconsistency between the nondiscrimination requirements of *Computer III/ONA* and section 275(b)(1). Section 275(b)(1), moreover, does not repeal or otherwise affect the *Computer III/ONA* requirements. We will consider in the Commission's *Computer III Further Remand* proceeding whether the *Computer III/ONA* requirements need to be revised or eliminated. For the same reason, we also decline to extend the *Computer III/ONA* requirements to all incumbent LECs, as recommended by AT&T.<sup>130</sup>

## VI. PROCEDURAL MATTERS

### A. Final Regulatory Flexibility Certification

56. The Commission certified in the *NPRM* that the conclusions it proposed to adopt would not have a significant economic impact on a substantial number of small entities because the proposed conclusions did not pertain to small entities.<sup>131</sup> No comments were received in response to the Commission's request for comment on its certification. For the reasons stated below, we certify that the conclusions adopted herein will not have a significant economic impact on a substantial number of small entities.<sup>132</sup> This certification conforms to the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).<sup>133</sup>

57. The RFA provides that the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>134</sup> The Small Business Act defines a "small business concern" as one that is independently owned and operated; is not dominant in its field of operation; and meets any additional criteria established by the Small Business Administration (SBA).<sup>135</sup> SBA has not developed a definition of "small incumbent LECs." The closest applicable definition under SBA rules is for Standard Industrial

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<sup>130</sup> AT&T comments at 22-23; AT&T reply at 22-23.

<sup>131</sup> *NPRM* at ¶ 87.

<sup>132</sup> 5 U.S.C. § 605(b).

<sup>133</sup> *Id.* §§ 601-611. SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

<sup>134</sup> 5 U.S.C. § 601(3). The term "small entity" is a generic term encompassing the terms "small business," "small organization," and "small governmental jurisdiction" under the RFA. See 5 U.S.C. § 601(6).

<sup>135</sup> 15 U.S.C. § 632(a)(1).

Classification (SIC) code 4813 (Telephone Communications, Except Radiotelephone).<sup>136</sup> The SBA has prescribed the size standard for a "small business concern" under SIC code 4813 as 1,500 or fewer employees.<sup>137</sup>

58. Many of the conclusions adopted in this Order apply only to the BOCs which, because they are large corporations that are dominant in their field of operation and have more than 1,500 employees, do not fall within the SBA's definition of a "small business concern." Some of the conclusions adopted in this Order apply, however, to all incumbent LECs. Some of these incumbent LECs may have fewer than 1,500 employees and thus meet the SBA's size standard to be considered "small." Because such incumbent LECs, however, are either dominant in their field of operations or are not independently owned and operated, consistent with our prior practice, they are excluded from the definition of "small entity" and "small business concern."<sup>138</sup> Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs.<sup>139</sup> Out of an abundance of caution, however, for regulatory flexibility purposes, we will consider small incumbent LECs within this certification and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by SBA as "small business concerns."

59. The Commission adopts the conclusions in this Order to ensure the prompt implementation of section 275 of the Act, which addresses the provision of alarm monitoring services by BOCs and other incumbent LECs. We certify that although there may be a substantial number of small incumbent LECs affected by the decisions adopted herein, the conclusions we adopt in this Order will not have a significant economic impact on those affected small incumbent LECs. First, section 275(a) applies only to Bell Operating Companies, prohibiting them, with certain exceptions, from providing alarm monitoring service until February 8, 2001. Thus, in clarifying the definition of "alarm monitoring service" and the manner in which we will apply the nondiscrimination provisions of section 275(b)(1), this Order has no significant economic impact on small incumbent LECs. Second, we have not adopted additional rules governing the nondiscrimination requirements of section

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<sup>136</sup> See *Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual* 282 (1987) (stating that SIC code 4813 includes "[e]stablishments primarily engaged in furnishing telephone voice and data communications . . . [or] leasing . . . methods of telephone transmission . . . and reselling . . . to others").

<sup>137</sup> 13 C.F.R. § 121.201.

<sup>138</sup> See *Local Competition Order* at 16144-45, 16150, ¶¶ 1328-1330, 1342.

<sup>139</sup> See *id.* at 16150, ¶ 1342.

275(b), which applies to all incumbent LECs; therefore, there is no change in the *status quo* as to the regulation of incumbent LECs in this regard.<sup>140</sup>

60. Third, our conclusion that section 275(b)(1) imposes a more stringent standard for determining whether discrimination is unlawful than that which already exists under sections 201 and 202 and applies to all incumbent LECs,<sup>141</sup> will not have a significant economic impact on small incumbent LECs. Incumbent LECs, including small incumbent LECs, are subject to pre-existing nondiscrimination requirements under the Act and state law and therefore already are required to respond to complaints of discriminatory behavior or more strictly limit their participation in discriminatory activities. We therefore find that the impact of the Order on incumbent LECs, including small incumbent LECs, of the more stringent standard of section 275(b)(1) will be *de minimis*.

61. Finally, our decision not to extend the *Computer III/ONA* nondiscrimination requirements to all incumbent LECs providing intraLATA alarm monitoring services, as noted in Section V, will prevent any significant economic impact on incumbent LECs, particularly small incumbent LECs, by sparing them the regulatory burdens and economic impact of complying with those additional rules.

62. For all of these reasons, we certify pursuant to section 605(b) of the RFA that the conclusions adopted in this Order will not have a significant economic impact on a substantial number of small entities. The Commission shall provide a copy of this certification to the Chief Counsel for Advocacy of the SBA, and include it in the report to Congress pursuant to the SBREFA.<sup>142</sup> A copy of this certification will also be published in the Federal Register.<sup>143</sup>

## **B. Final Paperwork Reduction Analysis**

63. As required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13,<sup>144</sup> the *NPRM* invited the general public and the OMB to comment on the Commission's

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<sup>140</sup> See *supra* ¶ 51.

<sup>141</sup> See *supra* ¶ 53.

<sup>142</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>143</sup> *Id.* § 605(b).

<sup>144</sup> 44 U.S.C. §§ 3501 *et seq.*


proposed changes to its information collection requirements.<sup>145</sup> Specifically, the Commission proposed to extend various reporting requirements, which apply to the BOCs under *Computer III*, to all incumbent LECs pursuant to section 275(b)(1). The OMB, in approving the proposed changes in accordance with the Paperwork Reduction Act,<sup>146</sup> "encourage[d] the [Commission] to investigate the potential for sunseting these requirements as competition and other factors allow."<sup>147</sup> In this Order, the Commission adopts none of the changes to our information collection requirements proposed in the *NPRM*. We therefore need not address the OMB's comment, although we note that our decision is consistent with the OMB's recommendation.

## VII. ORDERING CLAUSES

64. Accordingly, IT IS ORDERED that pursuant to sections 1, 2, 4, 201-202, 275, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201-202, 275, and 303(r), the REPORT AND ORDER IS ADOPTED, and the requirements contained herein will become effective 30 days after publication of a summary in the Federal Register.

65. IT IS FURTHER ORDERED that the Secretary shall send a copy of this REPORT AND ORDER, including the final regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 605(b) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary

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<sup>145</sup> *NPRM* at ¶ 88.

<sup>146</sup> *Notice of Office of Management and Budget Action*, OMB No. 3060-0738 (Sept. 27, 1996).

<sup>147</sup> *Id.*

**Appendix****List of Commenters in CC Docket No. 96-152**

Alarm Detection Systems, Inc.  
Alarm Industry Communications Committee (AICC)  
Alert Holdings Group, Inc.  
Ameritech  
Association of Directory Publishers  
Association of Telemessaging Services International  
AT&T Corporation (AT&T)  
Atlas Security Service, Inc.  
Bell Atlantic Telephone Companies (Bell Atlantic)  
BellSouth Corporation (BellSouth)  
Checkpoint Ltd.  
Cincinnati Bell Telephone (Cincinnati Bell)  
Commercial Instruments & Alarm Systems, Inc.  
Commonwealth Security Systems, Inc.  
ElectroSecurity Corporation  
Entergy Technology Holding Company  
George Alarm Company, Inc.  
Information Industry Association  
Joint Parties<sup>1</sup>  
MCI Telecommunications Corporation (MCI)  
Merchant's Alarm Systems  
Midwest Alarm Company, Inc.  
Morse Signal Devices  
New York State Department of Public Service (New York Commission)  
Newspaper Association of America  
NSS National Security Service  
NYNEX Corporation (NYNEX)  
Pacific Telesis Group (PacTel)  
Peak Alarm Company, Inc.  
People of the State of California/California PUC (California Commission)  
Per Mar Security Services  
Post Alarm Systems  
Rodriguez, Francisco  
Safe Systems

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<sup>1</sup>Bell Atlantic and Newspaper Association of America

Safeguard Alarms, Inc.  
SBC Communications, Inc. (SBC)  
SDA Security Systems, Inc.  
Security Systems by Hammond, Inc.  
Sentry Alarm Systems of America, Inc.  
Sentry Protective Systems  
Smith Alarm Systems  
Superior Monitoring Service, Inc.  
SVI Systems, Inc.  
Time Warner Cable  
United States Telephone Association (USTA)  
U S WEST, Inc. (U S WEST)  
Valley Burglar & Fire Alarm Co., Inc.  
Vector Security  
Voice-Tel  
Wayne Alarm Systems  
Yellow Pages Publishers Association